

To: Barrows, Judy[Barrows.Judy@epa.gov]
Cc: Dee.allen@ldftribe.com[Dee.allen@ldftribe.com];
lwawronowicz@ldftribe.com[lwawronowicz@ldftribe.com]
From: Hanson, Kristen
Sent: Wed 7/12/2017 7:47:53 PM
Subject: FW: Excavation Feasibility Study Task Order Status- Region Reports HQ has delayed task order and is backlogged-
[8-16-16 LDF MOA receipt letter to Richard Du Bey.pdf](#)
[2016.08.09 Correspondence to Erik Olson- EPA Region 5 re Memorandum of A....pdf](#)
[LDF/EPA - Memorandum of Agreement](#)
[Source data answer from Bristol/S2C2- EPA-Tribe Tracking Matrix 2B Tribal comments submitted and incorporated- Model #3 Groundwater comments](#)
[Visualization Files Critical Misrepresentation Table5.26.2017.xlsx](#)
[RE: EPA's Source Soil Interim Action gw SVE-AS system determination- clarification and request](#)
[TNR4-2015 Bill and Linda Kozak Access Agreement and 2017 Data Collection 6.19.2017.pdf](#)

Good Afternoon Judy,

Thank you for the visit with Dee and me yesterday. We look forward to information relating to the status of the task order allowing excavation arrangements to move forward. Below is additional information on the submitted MOU, EPA responses to tribal comments and questions, the uncorrected visualization model, and USGS access.

MOU

I have attached the MOU materials provided in EPA in August 2016.

Visualization Model

Staff identified critical errors in EPA's data visualization 4dim model files provided to the tribe May 14, 2017. These errors included inaccurate well construction data, data intestinally removed from the visualization, and data "control points" added that did not agree with existing site data. The errors result in significant mischaracterization of the Haskell Lake Site. The combined effect of the skewed representation, deleted data, and inaccurate data entry moves the bulk of the contaminated data across property lines.

Although the Tribal-EPA consultation agreement includes "close coordination of the Tribal and with direct participation by the Tribal NRD" - the model was completed without regard or response to written comments provided on 3/ 21/2017 and 5/3/ 2017, nor comments provided to earlier versions 2/21/2017, 2/23/2017, 3/16/2017, 3/23/2017, and 4/14/2017. Because all of

the funding for this task had been used, EPA was unable to correct errors prior to release to the Responsible Party. The Tribe offered and explored mechanisms to correct the data errors at the Tribe's expense prior to the May 23, 2017 release of 4 dim files.

Notification of the release was provided to Tribal Chairman and Tribal Technical Staff, but the Tribe did not agree to EPA's disclaimer and expressed objection to any reference to the Tribe attached to the uncorrected model.

We also understand that the release was predicated by a WDNR employee FOIA request threat. There is continued concern that the current WDNR Northern Region RR Program Supervisor involved in such requests previously was employed as the general manager for the company that completed the unsuccessful assessment and remediation work(REI) and then served in a regulatory management role when the site was considered for WDNR closure with misrepresented lab results.

Outstanding Request for EPA-Tribe Technical Facilitated Meeting

The Tribe agreed to move forward with EPA-Tribe Facilitated Meeting. The first meeting took place in February 2017. Tribal Staff travelled to Chicago for the March 2017 Meeting. A proposed agenda for the outstanding third meeting is included in the thread below.

USGS Access- Groundwater Elevations, Slug Tests, Depth to Bedrock

The Tribe continues to pursue access for reasonable collection of site data. The RP continues to deny USGS access to collect groundwater elevations, slug tests, and depth to bedrock data. No site data has been collected by EPA or the State for over a year. Although access was granted on one event, misinformation about EPA's site access arrangements and site access events circulated through the division and EPA legal. From Tribal legal we learned that three incorrect assertions were put forth internal to EPA . There was no attempt from division staff to directly inform the Tribe that improper access allegations had been made. The assertions were in direct disagreement with the successful event documented with dated pictures. All provisions of the access were honored included additional provisions added by REI at the Site. Since the unfortunate misinformation, EPA has agreed the work is needed but will not allow USGS access to collect needed site data under existing access agreements.

Legal opinion on access put forth by EPA division staff differ from reports from Tribal Legal.

At the urging of EPA, WDNR, and REI, the Tribe pursued access again (materials attached). After compiling with all provision put forth by the RP and substantial additional requirements put forth by REI (USGS water elevation methods documentation, USGS slug test methods

documentation, other requirements), the RP refused access. In general the RPs are reasonable and open to data collection until they have contact with REI or John Robinson, at which time they become upset. Access Restrictions usually involve WDNR staff John Robinson (former general manager of REI) and EPA staff (Bob/Sherry). This has been an ongoing issue and EPA technical staff are submissive to REI access demands. This includes REI stipulating constituents EPA is not allowed to sample, and EPA technical staff agreeing.

Responses to comments and questions

In the email attached we request Bob provide data and explain the decision EPA announced in an EPA-State- REI- Tribe call. Mr. Egan's cites professional judgment in lieu of any sharable evaluation.

Kristen Hanson

Environmental Response Program Coordinator

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From: Hanson, Kristen <KHanson@ldftribe.com>

Sent: Thursday, May 18, 2017 3:43:16 PM

To: Greenwater, Anthony

Subject: Next Facilitated Meeting-

Good Afternoon Anthony,

We would like to propose another facilitated meeting. Here are proposed agenda topics from LDF.

Draft Agenda Topics

Proposed May 2017 LDF-EPA Facilitated Technical Coordination Meeting

LUST Program Implementation

- Site Update from EPA and Tribe

- a) Field Activities
- b) Communication
- c) T.O. Status
- d) Interim Action Status
- e) CSM

- Tracking Matrix Updates

- Project Planning and Schedule

- a) Current Status of Site
- b) Current Identified Site Needs
- c) Establish Plan to Accomplish Identified Work
- d) Jointly Developed Schedule

- Access Agreements

- 25 Other LUST Sites- status of EPA data and Pilot Project

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From: Hanson, Kristen
Sent: Friday, July 7, 2017 1:32 PM
To: Barrows.judy@Epa.gov
Cc: Allen, Dee
Subject: Excavation Feasibility Study Task Order Status- Region Reports HQ has delayed task order and is backlogged-

Good Afternoon Judy,

We are requesting your assistance in reference to the status of the attached task order for the Haskell Lake Site. The region reported that the task order that includes an interim action excavation feasibility study has been delayed because of Headquarters Backlog (May 25 tech call notes attached). The Tribe has been anticipating source area excavation for years and have expiring contributing funds. For reference I have included some source soil interim action excavation history and recent events.

Source Soil Interim Action Excavation History:

2015

Source Soil excavation was proposed to EPA in April 2015 in a meeting in Chicago with Tribal and EPA legal, Gary Victorine, Sherry Kamke, Bob Egan, and Tribal Management and Staff. Tribal Staff put forth the Natural Resource Director's expectation that source soil removal occur by August 2015. The Tribe had been requesting assistance since November 2011.

Source Soil excavation was extensively discussed during the July 2015 EPA-Tribal Initial Consultation Meeting on Lust Sites within the Lac du Flambeau Reservation. During EPA's consultation visit in July 2015, Tribal costs estimates and scopes of work for interim action was shared with EPA's technical staff, Bob Egan. With only the historical cleanup for reference, the tribe had estimated the costs for a) source area delineation work ~\$30,000 b) source soil removal and trucking to the Lincoln county Landfill \$70,000 (cost for our Tribal Roads Department to

complete excavation, trucking, backfill, and compaction work estimate 1200 cubic yards), and landfill disposal costs ~ \$41,400.

Source area soil sampling was included in August 2015 EPA Task Order to delineate the source area. Unfortunately the task order was never implemented.

By the fall of 2015, the Tribe had received notice of partial interim action funding from the BIA Midwest Regional Director. The funding would only include source area excavation, trucking, and backfill. The Tribe shared notice of the potential funding to EPA Staff assigned to the project, Bob Egan. Mr. Egan was willing work with this funding with EPA work commitments to source area delineation, excavation planning, and landfill disposal. With support from EPA, the Tribe accepted the funding. It was expected that this work would be completed before the funds expired- September 2016.

Also, during the fall site conditions started to reveal themselves. Naph was observed in soil cores and well cuttings. Source Soils were identified at and below the water table. State soil sampling work took place, but the state program limited soil sampling to only soils above the water table.

2016

By March 2016 the Tribe received notice that a different scope of work than the agreed August Task Order would take place in expedited fashion before funding disappeared. The work did include soil borings in the source area. The EPA contractor and EPA agreed that the method proposed (single tube geoprobe borings) would likely not be successful for collection of soil samples in the source area at depth below the water table. Unfortunately timing and contracting restrictions prohibited modifying the scope of work to be reflective of known site conditions. The work would need to go forward a few days after the Tribe received the Sampling Work plan for comment. The Tribe offered to pay for the addition of LIF tooling add-on (\$3500/day) to make the scope of work more useful. Recovery below the water table was poor and a few questionable samples were collected. Soil Lab reports arrived after the EPA contract ended and have not yet been evaluated.

In March of 2016, EPA agreed to move forward with excavation interim action evaluation and planning. A report was expected to evaluate existing site data, determine degree and extent of source area, and interim action planning.

With the anticipation EPA soil data evaluation and , HRSC work was initiated by the State in July 2017. Although there was no work plan in place because of time constraints, it was agreed that the work (MIP or LIF or both) would include the source area and plume core. Unfortunately the source area was largely avoided resulting in EPA lacking reasonable source area data to evaluate in the forthcoming report. During the weeklong HRSC work and thereafter, The Tribe expressed concerns that the EPA contractor lacked source area data needed for the already contracted forthcoming interim action excavation report (the only source area data was 2 questionable soil samples, no source bottom depth established). With the importance of source area work a priority of the Tribe, the Tribe offered to conduct source area work with HRSC . The Tribe sought technical assistance from EPA and EPA's contractor and completed LIF work in early September 2017. Although Mr. Egan was invited and encourage to be present for this work, Mr. Egan was not available for the data gap source area work. The LIF report was received on September 20, 2017 and provided to EPA for inclusion in source area excavation planning. Mr. Egan advised that the Tribal data would not be included in EPA's interim action evaluation, but EPA's contractor choose to include the LIF data in their evaluation.

EPA Acting Regional Director participated in a call with Tribal Council on November 29, 2016 and Tribal Council expressed concerns that source soil removal had yet to be initiated. Regional Director Kaplan assured council that a source control was planned for this summer.

2017

EPA-Tribe facilitated technical meeting occurred in February and March. For EPA to move forward on source area interim action excavation planning, a feasibility study was needed and identified as an actionable task (see attached Feb 23rd meeting notes).

The Excavation Feasibility Study is referenced in EPA's March 20, 2017 letter with an anticipated completion date of summer 2017 (attached).

EPA notified the Tribe that the Excavation Feasibility Task Order was moving forward in an May 24th email.

During the May 25th tech meeting call, Mr. Egan reports that the Task Order that includes the Excavation Feasibility Study has been delayed due to HQ Backlog.

During a June 30th call with EPA, the Tribal Staff learned that the task order may not have been submitted to headquarters.

Your assistance is appreciated,

Sincerely,

Kristen Hanson

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